D.B. Civil Special Appeal No.346/2006

Satish Kumar
Vs.
State of Rajasthan & Ors.

Date of Judgment :: 11-07-2006

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA
HON'BLE SHRI JUSTICE MOHD. RAFIQ

Mr. S.P. Sharma, for the appellant.

This special appeal is directed against the order of the learned Single Judge dated 30.06.2006 dismissing the writ petition of the appellant.

The appellant had filed writ petition challenging the order dated 22.06.2006 by which he was transferred from Panchayat Samiti, Jaisalmer to Panchayat Samiti, Shergarh, Jodhpur District.

The appellant contends that he is due to superannuate from service in January, 2008 and as he is at the verge of retirement, it would not be proper to shift him elsewhere. The basis of claim of the appellant is a decision of this Court in Dr. Smt. Pushpa Mehta Vs. Rajasthan Civil Services Appellate Tribunal & Ors. 2000(1)WLN 681. We have gone through the decision. After observing that ordinarily, the Tribunals and Courts are not to interfere with the order of the transfer unless it is challenged on the ground of malafide or the transfer is effected for

extraneous considerations, the Court observed that if an employee is on the verge of retirement he should not be disturbed from the place of his/her posting and he/she should be given sufficient time so that he/she may plan his/her post retirement life. If transfer is considered necessary in public interest, it should be kept in mind while giving fresh posting that minimum inconvenience is caused to the concerned employee.

The observations cannot be understood as laying down any rule of law that the employee can not be transferred when he is nearing his retirement. It is well settled that unless there is any violation of some statutory rule or where the transfer is found to be actuated by malafide or some extraneous consideration,the Courts are not supposed to interfere with orders of transfer and posting. No violation of any statutory provision is cited nor any case is made out that transfer is actuated by malafide or any extraneous consideration. We are thus of the opinion that the only option for the appellant is to make representation in respect of his grievance.

We accordingly permit the appellant to make representation in respect of his grievance to the concerned authority, but before that he must join the place where he has been posted on transfer i.e. Shergarh. After joining at Shergarh, he may submit representation which shall be considered by the

concerned authority as early as possible, preferably within one month.

Subject to the above observations, the appeal is dismissed.

[MOHD. RAFIQ],J. [S.N.JHA],CJ.

Praveen